

*NOTE: This order is amended by Z.C. Order No.402.

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 342*
CASE NO. 80-12C
MAY 14, 1981

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on January 29, February 26, and March 23, 1981. At those hearing sessions, the Zoning Commission considered an application from Nicos C. Asprides, Trustee for Cabogon Investments for consolidated review and approval of a Planned Unit Development(PUD) and related amendment to the Zoning Map of the District of Columbia, pursuant to Section 7501 of the Zoning Regulations. The hearings were conducted under the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application requests consolidated review and approval for a Planned Unit Development on lot 917 in Square 1299 and a change of zoning from R-1-B to D/C-2-A for a portion of lot 917 in Square 1299. On October 9, 1980 at its regular monthly meeting, the Zoning Commission suggested that the developer prepare a revised design plan that responded to certain issues that were raised. In response to that suggestion, the developer submitted revised plans for the same level of development. The essential difference between the two plans is that in the first plan the west tower has six-stories and the east tower has eight stories. In the second plan, this arrangement is reversed and the total complex is shifted closer to Wisconsin Avenue. The Commission's proceedings were focused on the revised plan.
2. The subject site is split-zoned between D/C-2-A and R-1-B. It is located at 2141 Wisconsin Avenue, N.W., and consists of approximately 28,754 square feet of land. Of that total approximately 2,700 square feet is proposed to be rezoned. The site is proposed to be purchased and developed by Thomas J. Turchan, developer.
3. The R-1-B District permits matter-of-right development of single-family detached dwellings with a minimum lot area of 5000 square feet, a minimum lot width of fifty feet, a maximum lot occupancy of forty percent, and a maximum height limit of three stories/forty feet.

The D/C-2-A District permits matter-of-right low density development, including office, retail and all kinds of residential uses, to a maximum floor area ratio(FAR) of 2.5 with non-residential uses limited to 1.5 FAR, a maximum height of forty feet and a maximum lot occupancy of sixty percent for residential uses. This district will also permit chanceries of foreign governments with the approval of the Board of Zoning Adjustment. Pursuant to Section 7501, the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development, conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right development standards.

4. The developer proposes to construct a residential development with two apartment towers, inter-connected with a gallery passageway along the southern side of the site. A zone change is sought to permit the use of the entire site for the development.
5. The site is presently improved with a one story structure with a parking lot in the rear. The structure was used for offices in the past, is presently vacant, and is intended to be razed for the site to accommodate the proposed redevelopment.
6. The site is approximately ninety-one feet in width and 290 feet in depth. The eastern boundary of the site abuts the large U.S. Naval Observatory Circle property, which contains the U.S. Naval Observatory structures and the residence of the Vice President of the United States. The strip of the site abutting the Observatory Circle is zoned R-1-B for a depth of thirty feet. The property has a mild slope toward Observatory Circle.
7. To the north, west, and south of the site is D/C-2-A zoning. To the east of the site is R-1-B zoning. To the distant north of the site is R-1-B zoning and to the distant west and south of the site is R-3 zoning.
8. The uses in the area are consistent with the zoning pattern. The site is on the east side of Wisconsin Avenue between Calvert and Whitehaven Streets, N.W. Wisconsin Avenue, in the vicinity of the site, is predominantly developed with buildings containing commercial offices, retail, and services uses. To the south of the site are two two-story office buildings and one four-story office building. To the immediate north of the site is a new five-story office/apartment building which is presently under construction. The predominant heights of building on Wisconsin Avenue in the subject area are two to three and five to six

stories. The predominant uses in the residential districts near the site are single-family residential uses.

9. The developer, by testimony presented at the public hearing, testified that the development as proposed would have ninety-two condominium apartments, including sixteen efficiency, sixty one-bedroom, and sixteen one-bedroom/den apartments. The proposed FAR is 3.0. The western tower along Wisconsin Avenue will contain approximately 2009 square feet of commercial space at the first floor. There will be a landscaped court located between the eastern and western towers. The front and rear yard areas and the court will provide residential recreation space in addition to recreational space on the roof tops of each tower.
10. The developer, by testimony presented at the public hearing, testified that forty-four off-street parking spaces would be provided, two less than what would be required under matter-of-right development. The parking spaces would be provided in an underground parking garage and would be sold to condominium apartment owners. The developers further testified that in the event all of the parking spaces were sold, he would acquaint persons seeking parking spaces, of the availability of leased parking spaces at 2139 and 2201 Wisconsin Avenue, N.W. One forty-five foot loading berth will be provided at the rear of the site.
11. The developer proposes to developed the property on a single lot of record. All services, including trash collection, snow removal, and maintenance of the court and landscaped areas will be managed and paid for by the developer or the condominium association.
12. The developer through its architect, testified that vehicular access to the site would be provided through a fourteen foot wide, one-way driveway, which also serves as access for the commercial-office building at 2201 Wisconsin Avenue. Based on the plat filed with the Commission subsequent to the hearings, the Commission finds that the access system can accommodate both cars and truck vehicular access to service the site.
13. The developer through its land-use consultant, testified that the proposed rezoning and planned unit development is consistent with the development goals and policies of the District of Columbia, is responsive to the critical need for affordable housing in the city, will enhance and promote the future development of the surrounding neighborhood, and will provide the future residents with amenities in a living environment superior to that which would be achieved under matter-of-right development. The Commission so finds.

14. The developer through its traffic and transportation consultant, testified that there would be no adverse impact on traffic conditions in the area due to the proposed development and that the proposed parking ratio of approximately one space per two units should be adequate for the expected car ownership of future residents.
15. The developer through its real estate consultant, testified about the buyer profile for the proposed development and condominium market conditions. He pointed out that there is a great demand for condominium units of the size, as proposed and that approximately half of the urban condominium owners, especially those who purchase small units, do not own cars and, therefore, do not need parking spaces.
16. The Office of Planning and Development (OPD), by report dated January 21, 1981 and by testimony at the public hearing, recommended that the Zoning Commission approve the application, subject to the resolution of issues relative to setback at Wisconsin Avenue, height, parking, vehicular circulation, roof-top recreational space, and environmental impact. Subsequently, the OPD, by report received 4-3-81, recommended development conditions, guidelines, and standards.
17. The D.C. Department of Transportation (DCDOT) by memorandum dated February 24, 1981 and by testimony at the 2-26-81 public hearing, raised several questions about the proposed development. First, DCDOT questioned the workability of the fourteen foot driveway in terms of turning radius. The Commission finds that the plat filed by the developer subsequent to the hearing resolves this issue. Second, DCDOT found the proposed provisions for loading and unloading unacceptable and recommended that the developer provide a service entrance at the east end of the building adjacent to the loading dock. The Commission finds that the revised plans presented at the public hearing on March 23, 1981 resolve this issue. The DCDOT withdrew its objections as to all other items based upon the amended drawings and arrangement for leasing of parking spaces.
18. The Fire Department, by memorandum dated January 2, 1981, indicated that it had no objections to the proposed development and that the proposed development will have no adverse impact on the operations of the Fire Department.

19. The Superintendent of Schools, by memorandum dated December 31, 1980, stated that the District of Columbia Public Schools had no objections to the proposed PUD and map amendment.
20. The Department of Environmental Services, through the report of the Office of Planning and Development, indicated no objections to the proposed development and stated that the developer should contact the DES staff to work out the final details of the connection to the water and sewer system.
21. Advisory Neighborhood Commission 3B, by letter dated February 26, 1981 and by testimony presented at the public hearing on that date, conditionally supported the application subject to one of the following conditions being met:
 - a. Build ninety-two parking spaces underground;
 - b. Build forty-four parking spaces underground and have the developer make firm lease arrangements with owners of existing nearby commercial space for sufficient parking for ninety-two residential units plus whatever commercial space requirements might be; or
 - c. Same as condition b but add additional surface parking spaces for evening and weekend parking needs in the rear of the proposed building where the present loading dock is presently shown.

The ANC strongly supported a residential use of the property and placing the lower tower with setback fronting on Wisconsin Avenue. Furthermore, the ANC also stated that it would prefer either condition b or c. At the hearing a representative testified that the arrangement made with adjoining property owners for leasing of spaces meets the spirit of their conditions as set forth above. The Commission finds that by obtaining lease commitments from the two adjacent property owners, the developer has adequately met the conditions suggested by the ANC 3B. In response to the issues and concerns of ANC3B, the Commission further finds that the developer has met its burden to demonstrate the intent to develop a quality residential project which would be in character with the surrounding neighborhood.

22. The U.S. Naval Observatory, by letter dated 11-12-80, supported the proposal provided that adequate care is taken in the design of exterior lighting so as to minimize extraneous sky lighting.

23. Two other adjoining property owners either supported the application or offered no objections.
24. There were no persons or parties in opposition to the proposal.
25. The Commission finds that, based on the testimony and evidence presented into the record, the original proposal with the eight-story tower at the rear or east of the site is preferable. The preferred height profile and setback along Wisconsin Avenue will provide more height consistency plus the amenity of a more attractive entrance area. Further, the distance of the east tower from the existing Naval Observatory building is approximately 1,150 feet and is interrupted by heavy growth of large trees. Accordingly, the Commission finds that there will be no adverse impact on the Observatory.
26. This application was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that the property covered by the planned unit development and zone change abuts the grounds of the U.S. Naval Observatory which is also the site of the Vice President's Home. The NCPC found that the protection of the facilities and the grounds of the Observatory is a Federal interest. The NCPC concluded that the planned unit development and zone change would not adversely affect the U.S. Naval Observatory or other Federal interests nor be inconsistent with the Comprehensive Plan for the National Capital, provided that the guidelines, conditions, and standards require approval of final buildings plans by the Superintendent of the Observatory in order to minimize any skylighting which would detract from the quality of celestial observations at the Observatory.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Article 75 to encourage the development of a well-planned residential development which will offer more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.
3. Approval of the application would be consistent with the purposes of the Zoning Act(Act of June 20, 1938, 52 Stat, 797) by furthering the general public welfare and serving to stabilizing and improve the area.
4. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding community.
5. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Maps of the District of Columbia.
6. The Zoning Commission has accorded to the Advisory Neighborhood Commission, the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby orders APPROVAL of the consolidated PUD for lot 917 in Square 1299, and rezoning of the site such that all of lot 917 in Square 1299 is zoned D/C-2-A, subject to the following conditions, guidelines, and standards:

1. The Planned Unit Development(PUD) shall be development in accordance with plans submitted to the Zoning Commission prepared by Lockman Associates Architects marked as Exhibit No. 6 and revised by Exhibits No. 17,56, and 50 of the record, except as such plans may be modified to conform to the guidelines conditions and standards of this order.
2. The proposed development shall be for residential use, except for the portion of the first floor of the development marked for "commercial area" on sheet Z-8 of Exhibit No. 6.

3. The overall density of the PUD shall not exceed a floor area ratio of 3.0. The area of the commercial component of the proposed development shall not exceed a gross floor area of 2,099 square feet. The area of the residential component shall occupy the balance of the total floor area ratio of 3.0.
4. The number of residential dwelling units shall not exceed ninety-two.
5. The PUD shall have two towers, one six stories in height and the other eight stories in height. The six-story tower shall front on Wisconsin Avenue with a ten-foot setback and the eight-story tower shall be located at the rear of the site. The roof structures on the towers shall comply with the requirements of Section 3308 and Paragraph 5201.24 of the Zoning Regulations.
6. The court area between the two towers and the open spaces on the site shall be landscaped and used for residential recreation space as shown on Exhibit No. 6, as revised by Exhibit No. 17 and 56. Rooftop recreational equipment, furniture, and landscaping shall be provided, as shown as Exhibit No. 50 in the record of the case.
7. Forty-four parking spaces shall be provided in the underground parking garage to be available for purchase by the owners of the individual dwelling units on a first-come, first-served basis. The applicant shall also make arrangements to reserve up to thirty-one additional parking spaces in nearby parking structures and lots to allow the purchasers of the individual dwelling units to lease such spaces on a first-come, first-served basis.
8. The rear yard loading berth shall be 45 feet in length. A service entrance to the building shall be provided at the east end of the building adjacent to the loading berth. A lift shall be provided adjacent to the loading berth area for access to the garage level trash pickup as per Exhibit No. 56.
9. The 2,099 square feet of commercial space will be limited to the commercial uses contained on the list filed at the March 23, 1981 public hearing, as Exhibit No. 60.
10. The lot occupancy for the PUD shall not exceed 48.3 percent.
11. The change of zoning requested by the applicant from R-1-B to D/C-2-A for a part of lot 917 in Square 1299 shall be effective upon recordation of the covenant required by Section 7501.8 of the Zoning Regulations.

12. Prior to the issuance of a building permit, the Superintendent of the Naval Observatory shall approve, in writing, the final building plans in order to minimize any skylighting which would detract from the quality of celestial observations at the Observatory.
13. No building permit shall be issued until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the Corporation Counsel and the Zoning Administrator which covenant shall bind the applicant and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Zoning Commission.
- * 14. The final planned unit development approved by the Zoning Commission shall be valid for a period of two years, from the effective date of this order, within which time, application must be filed for a building permit, as specified in Paragraph 7501.81. Construction shall start within three years of the effective date of the order.

Vote of the Commission taken at the public meeting of April 9, 1981: 4-0 (Commissioners Theodore F. Mariani, Ruby B. McZier, John G. Parsons, and Walter B. Lewis, to approve with conditions - Commissioner George M. White, not voting not having participated in the case).



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on May 14, 1981 by a vote of 3-0 (John G. Parsons, Ruby B. McZier, and Walter B. Lewis to adopt, Lindsley Williams not voting not having participated in the proceedings, George M. White not present not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective on **29 MAY 1981**. The amendment to the Zoning Map shall not be effective until the required covenant is filed in the land records of the District of Columbia.

* NOTE: This order is amended by Z.C. Order No. 402.